Atlantic's affiant has contended, *see* Sayer Declaration at 5, ¶ 11, even apart from the expenses associated with the MDF, a DLC switch port termination should cost between $8.00 and $28.00 less than an analog line interface. *Cf.* AT&T Jan. 7, 1999 *ex parte* at 5 (citing testimony of AT&T expert that port costs for DLC decrease as much as 67 percent). In addition, this figure most likely is conservative because the 18.3 percent DLC penetration probably reflects more UDLC than IDLC and the switch investment only reflects the DLC credit for the embedded IDLC.

AT&T and MCI WorldCom believe that the basic switch variable cost per line should be adjusted upward to convert the depreciation data set results to assume all analog lines, and a realistic decrement to this figure should be triggered for each line provisioned on IDLC in the synthesis model. Using the Commission's proposed $83 figure as an example (as discussed above, that figure should be reduced), the Commission should increase that figure by 18.3 percent times the $12.00 MDF and the $18.00 switch port termination savings,[81] or $5.49, resulting in $88.49 per line. AT&T and MCI WorldCom further propose that the $30.00 credit per DLC line ($12 per MDF termination plus $18.00 per switch port termination) then be applied to the model's calculated number of DLC-provisioned lines. Thus, the new DLC offset input would be $30.00, but would be applied only to the number of DLC lines the model calculates. This guarantees that individual wire centers with different levels of calculated DLC would receive the appropriate amount of DLC credit. For example, Washington D.C., with small amounts of DLC, would receive little credit, while rural offices with large amounts

[81] $18.00 per port is the midpoint between Sayer's range of $8.00 - $28.00 savings for DLC lines.

of DLC would receive an appropriately large DLC credit. Although this calculation is conservative, it is verifiable and supported by the record. Indeed, given the undisputed fact that an MDF is not used in conjunction with a IDLC, it would be arbitrary for the Commission to fail to adjust for the lower costs of terminating IDLC lines.

AT&T and MCI WorldCom also disagree with the proposal (*Further Notice*, ¶ 84) to adopt a switch port administrative fill factor of 94 percent. The switching and interoffice module formulas currently apply the fill factor input against the entire switch investment. In reality, this fill factor should be applied solely to the line port portion of the switch. Thus, either the formula needs to be modified, or the input needs to be adjusted upward so that the resulting overall switch investment increase attributable to line fill would be the same as if the formula were corrected.[82]

Finally, the current switching and interoffice transport inputs include some inputs for signaling costs that should have been modified from the original HAI values. *See* AT&T Jan. 7 *ex parte* at 7. Those values were based upon data from 1994 that do not incorporate the reduced cost of current STPs and SCPs. BellSouth has provided more recent data that are substantially lower than the original HAI inputs. *See* BellSouth Aug. 7, 1998 *ex parte*, Attachment to Question 1. AT&T and MCI WorldCom agree that BellSouth's proposed prices should be adopted.

C. Use Of The LERG

AT&T and MCI WorldCom disagree with the proposal in the *Further Notice* (¶¶ 176-77) to look to the LERG database to determine whether a particular wire center

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[82] This would require a 98.2 percent fill factor input, based on the assumption that 30 percent of the switch is port-related. 30% * 94% + 70% * 100% = 98.2%.

in the model should house a host/standalone or a remote switch. Use of the LERG directly contradicts the Commission's stated goal to model costs using efficient, forward-looking principles, because the LERG database reflects the incumbent LECs' historic determinations to deploy host/standalone versus remote switches. Even assuming a model in which the incumbent LECs' existing wire centers remain in the same locations, their historic determinations regarding remote versus host/standalone switches would be made very differently and more efficiently under today's conditions, and cannot be relied on in a forward-looking model. In particular, embedded LERG assignments of switches as hosts/standalones or remotes are likely inconsistent with the Commission's forward-looking interoffice transport architecture that directs host/remote systems to be placed on separate SONET rings.

Applying forward-looking principles to existing wire centers would result in deployment of fewer (and more expensive) standalone switches and more (and less costly) remotes. Placement of additional remotes is dictated not only by new geographic growth patterns but by the dramatic technological changes in the capacities for remote switches. Because the LERG reflects the incumbents' historic and now inefficient decisions to deploy host or stand-alone switches rather than remotes, reliance on the LERG to model the type of switch used in a wire center would significantly overstate forward-looking costs. This problem is compounded by the Commission's current decision to have hosts and their sub-tending remotes placed on their own SONET ring. First, placing hosts and remotes on their own SONET rings is not a common practice. Indeed, it is unlikely that review of the incumbent LECs' switch placement guidelines would reflect the use of SONET rings for host/remote systems because many remotes, as specified by the LERG, are too small to be economically placed on a ring. In any event, the use of the LERG in combination with this assumption produces a vast overstatement of the necessary interoffice cost because expensive electronics and costly redundant transport are being amortized over too few subscribers.

IV. EXPENSES

A. Nationwide Rather Than Company-Specific Inputs

The Commission tentatively concluded that it should adopt input values that reflect the average expenses incurred by non-rural carriers rather than company specific expenses. *Further Notice*, ¶¶ 198-200. AT&T and MCI WorldCom agree with this conclusion. The universal service mechanism should be based on the costs that an efficient carrier *could* achieve, not on what any individual carrier *has* achieved. In addition, on a going-forward basis, an incumbent LEC's individual costs are irrelevant, as it will not be the only company providing service. Thus, the expenses should not reflect idiosyncratic individual LEC expense levels.

B. Removal Of One-Time Expenses

The Commission has expressly recognized that the impact of one-time expenses "can be significant," and should be "estimated" and eliminated from forward-looking universal service costs. *Further Notice*, ¶¶ 220-21. The Commission nonetheless rejected AT&T's and MCI WorldCom's estimate of these expenses because "the SEC reports [on which the estimates were based] do not specifically indicate whether the one-time expenses were actually made during the year(s) indicated." *Id.*

AT&T and MCI WorldCom disagree with the Commission's decision to reject their one-time cost estimates. The Commission's goal in this proceeding is to derive input values that will calculate accurate universal service costs. In light of that goal, it is far better to estimate one-time costs through the use of SEC reports that may imperfectly establish the precise date of their occurrence than to fail to exclude any of these costs at all. As shown by these SEC reports, nearly 20 percent of yearly corporate operations expenses and 2.5 percent of yearly network operations expenses consist of non-recurring charges. Accordingly, the failure to remove these expenses from universal service cost calculations would significantly inflate the forward-looking cost of providing universal service by assuming a never-ending annual stream of "one-time" nonrecurring charges.

C. Converting Expenses To 1999 Values

In the *Further Notice* (¶ 226), the Commission proposes "to use a 6.0 percent productivity factor for each year (1997 and 1998) to reduce the estimated input values for each account," and seeks comment on this method of converting expenses to 1999 values. AT&T and MCI WorldCom believe that the proposed 6 percent productivity factor is too low to reflect actual incumbent LEC productivity gains. The productivity factor should be set at 8.4 percent to reflect currently achieved productivity improvements.[83] But at the very least, the factor should be set at 6.5 percent, which is the productivity factor that the Commission itself has required incumbent LECs to use in the federal price cap plan, effective since July 1, 1996. The Commission determined that this would be the level of

[83] The validity of AT&T's and MCI WorldCom's position has been demonstrated at length in the "Refresh the Record" proceeding. *See, e.g.*, Comments of AT&T Corp. to Update and Refresh the Record, *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Request for Amendment of the Commission's Rules Regarding Access Charges Reform and Price Cap Performance Review for Local Exchange Carriers*, CC Docket Nos. 92-262, 94-1, RM No. 9210 (filed Oct. 26, 1998). The record in that proceeding shows that the incumbent LECs have achieved productivity well in excess of the current 6.5 percent productivity factor. *Id.* Rather than reiterate the arguments made in the Refresh the Record proceeding, AT&T and MCI WorldCom incorporate their comments in that proceeding as if fully set forth herein.

company-wide productivity that the incumbent LECs would achieve since that time period. It would be inconsistent for the Commission to use the existing 11.25 percent cost of capital – on the grounds that it is the level of return the Commission determined the incumbent LECs needed the last time it examined the issue – and then to fail to use the productivity target that the Commission determined the incumbent LECs would achieve on a total company basis.

D. Local Number Portability Costs

In the *Further Notice* (Appendix A at A-31), the Commission proposed a per line monthly local number portability ("LNP") cost of $0.39, apparently based on the LNP rates that the incumbent LECs filed. Many of those rate were suspended and investigated, however, and those investigations have recently been concluded. The default input for LNP greatly exceeds the cost-based LNP rates that resulted from these investigations, which range from $0.23 to $0.48 per month. The Commission therefore should use the line-weighted nationwide average LNP rate for this input. That weighted average currently is $0.32.

V. CAPITAL COSTS

A. Depreciation

AT&T and MCI WorldCom fully support the Commission's tentative conclusions on depreciation input issues. As AT&T and MCI WorldCom demonstrated in their prior comments, the Commission's Part 32 depreciation lives and net salvage values assure forward-looking capital recovery. AT&T/MCI WorldCom Dec. 17, 1997 Comments at 21; AT&T/MCI WorldCom Dec. 27, 1997 Reply Comments at 10. Indeed, as the Commission observed in its *Further Notice*, the Commission's current depreciation lives are, if anything, overly generous and have permitted incumbent LECs to build a depreciation reserve ratio of greater than 50 percent. *Further Notice*, ¶ 235. *See also* GSA Dec. 17, 1997 Comments at 5.

Similarly, AT&T and MCI WorldCom concur with the Commission's tentative decision to adopt a straight line equal life group depreciation method. *See Further Notice*, ¶ 231. There is no reason to expect that the facilities used today to provide local exchange service will depreciate more rapidly today than they will in the succeeding years. Tellingly, none of the incumbent LEC commenters that favor accelerated depreciation have provided any evidence that rebuts the presumption in favor of straight line depreciation. Moreover, if the Commission were to depart from straight line depreciation, it would have to engage in a speculative, and time intensive investigation for each asset class as to the precise depreciation curve for that asset class. *See* Marvin A. Chirelstein, *Federal Income Taxation* 144 (1991) (explaining difficulties in using non-straight line depreciation for machinery, equipment, and other tangible[]" assets.)

Finally, AT&T and MCI WorldCom seek to clarify that the Commission does not intend to preclude accounting for the impact of deferred taxes. Under current federal tax laws, telephone companies are able to take accelerated depreciation of their assets for tax purposes. Because depreciation expenses are deducted from earnings, accelerated depreciation allows a company to effectively defer tax liabilities into the future and to reduce the present value of these liabilities. In other words, accelerated tax depreciation allows a company to use money that it otherwise would have to pay in taxes.[84] HAI, as

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[84] *See* Marvin A. Chirelstein, *Federal Income Taxation* 147 (1991) (under federal tax laws, "the cost of an asset is recoverable over a predetermined period that is, and is intended to be, significantly shorter than the useful life of the asset or the period during which the asset is expected to be used in the taxpayer's business. . . . . The result (as (continued . . .)

well as BCPM, takes into account the economic value of these deferred taxes – *i.e.*, the time value of money – when calculating annual charge factors.[85] Thus, because accelerated tax depreciation lowers the costs of providing basic phone service, the Commission should confirm that universal service costs should include adjustments to reflect the economic value of this accelerated tax depreciation.

B. Cost Of Capital

AT&T and MCI WorldCom disagree with the Commission's tentative decision to use the current federal rate of return of 11.25 percent to calculate universal service costs. *See Further Notice*, ¶ 237. In the *Further Notice*, the Commission states that it refused to adopt the lower cost of capital value used in HAI because the model's "proponents have failed to make an adequate showing to justify rates that differ from the current 11.25 percent federal rate of return." *Further Notice*, ¶ 239. However, in its prior *Inputs Public Notice*,[86] the Commission did *not* seek comment on the rate of return. In light of the fact that the Commission did not solicit evidence on this issue, it cannot justify retaining an excessively high cost of capital on the ground that the parties failed to provide such evidence.

(continued . . .)
usual) is that the effective rate of tax on income from investment in plant and machinery is much lower than the statutory tax rate; put differently, it is as if a portion of such income were tax-exempt.").

[85] These HAI expense modules were submitted to the Commission in MCI WorldCom's March 12, 1999 *ex parte*.

[86] *Common Carrier Bureau Requests Further Comment On Selected Issues Regarding The Forward-Looking Economic Cost Mechanism For Universal Service*, Public Notice, CC Docket Nos. 96-45, 97-160, DA 98-848 (rel. May 4, 1998) ("*Inputs Public Notice*").

That is especially true when there is a separate, ongoing Commission proceeding devoted to this cost of capital issue, in which AT&T and MCI WorldCom have conclusively demonstrated that the relevant cost of capital is, in fact, much *lower* than the HAI estimate. As AT&T and MCI WorldCom have explained, the current federal rate of return, which was set in 1990, is not forward-looking and grossly exceeds the true cost of capital of approximately 8.5 to 9 percent. *See generally* Responsive Submission of AT&T Corp. to Prescription Proceeding Direct Case Submissions and Reply Comments on the Notice of Proposed Rulemaking, *In the Matter of Prescribing the Authorized Unitary Rate of Return for Interstate Servs. of Local Exchange Carriers*, CC Docket 98-166 (Mar. 16, 1999). Indeed, the incumbent LECs in that proceeding did not even attempt to provide the Commission with any data, calculation, or methodology to support their claim that their cost of capital had *increased* since 1990, but instead offered only anecdotal and unquantifiable rhetoric regarding the level of competition to support their position.[87]

Thus, if the Commission remains committed to setting the cost of capital for universal service costs in the federal rate represcription proceeding, it is vital for the Commission to adopt an appropriate forward-looking cost of capital in that proceeding by January 1, 2000, when universal service costs are to be calculated. Indeed, failure to do so would result in grossly overstating the costs of providing universal service. Changing the cost of capital from 11.25 percent to 8.64 percent (but holding all other inputs

[87] Moreover, it is inappropriate to apply a federal rate of return to the un-separated costs modeled by the synthesis model. The overwhelming share of these costs are in the intrastate jurisdiction, and most state commissions have determined that lower rates of return are appropriate for these costs.

constant) would reduce the overall cost of supported services by approximately 10 to 12 percent. At a minimum, if the Commission cannot conclude its federal rate represcription proceeding by the end of the year, the Commission should give up its "two wrongs make a right" approach and use the 10.01 percent cost of capital default value used in HAI, which is still well above the true forward-looking value.

C. Annual Charge Factors

AT&T and MCI WorldCom fully support the Commission's tentative decision to use HAI's expense module to develop annual charge factors. *Further Notice*, ¶ 242. As the Commission observed in the *Further Notice* (¶ 241), HAI and BCPM calculate annual charge factors in the same manner. Moreover, because the relevant parts of the Commission's synthesis model are based on HAI, use of the HAI annual charge factors is fully consistent with the synthesis model, and is easier to implement.

VI. OTHER ISSUES

The Commission seeks comment on how it should interpret the term "local exchange operating entity" in section 153(37) of the Communications Act, and whether this term refers to an entity operating at the study area level or at the holding company level. *Further Notice*, ¶ 251.

AT&T and MCI WorldCom believe that the Commission should aggregate a holding company's operations within a state for purposes of applying the criteria of section 153(37). Nothing prevents a holding company from gaining operating efficiencies by combining operations from different study areas, and, indeed, a forward-looking service provider should be required to do so. In addition, allowing a holding company to treat its study areas separately would only encourage it to devise corporate structures that would allow it to manipulate the universal service system. For example, a holding company could set up multiple subsidiaries in a state, each with separate study areas for regulatory purposes. Then, if one (or more) of the subsidiaries operated in a study area that met the criteria for rural designation, it could claim universal service support commensurate with that designation even though the holding company was able to enjoy the efficiencies of operating a large telephone company in that state.

CONCLUSION

For the foregoing reasons, the Commission should revise its proposed input values as described in these comments.

Respectfully submitted,
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July 23, 1999

EXHIBITS A AND B

Exhibits A and B to the Comments of AT&T Corp. and MCI WorldCom contain proprietary information and therefore have not been included in this nonproprietary version of the document.

Certificate of Service

I, Cassandra M. de Souza, do hereby certify that I caused one copy of the foregoing Comments of AT&T Corp. and MCI WorldCom, Inc. to be served by First Class mail on all parties on the attached service list, this 23rd day of July, 1999.

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